



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/338,567 01/12/90 KELLY

6-2071-3

EXAMINER

WILSON, J.

12M2/0430
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ART UNIT PAPER NUMBER

6

1203
DATE MAILED:

04/30/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined. Responsive to communication filed on _____
for restriction purposes only. This action is made final.
A shortened statutory period for response to this action is set to expire _____ month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892.
2. Notice of Draftsman's Patent Drawing Review, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6. _____

Part II SUMMARY OF ACTION

1. Claims 1-28 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claims _____ are allowed.

4. Claims _____ are rejected.

5. Claims _____ are objected to.

6. Claims 1-28 are subject to restriction or election requirement.

7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. Formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable; not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been approved by the examiner; disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed _____ has been approved; disapproved (see explanation).

12. Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____.

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other

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EXAMINER'S ACTION

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-9, 21 and 22, drawn to compositions containing phyto-oestrogen, classified in Class 424, subclass 195.1.

II. Claims 10-20 and 23-28, drawn to a method of improving health of a human by administering compositions of Group I, classified in Class 514, subclass 22+.

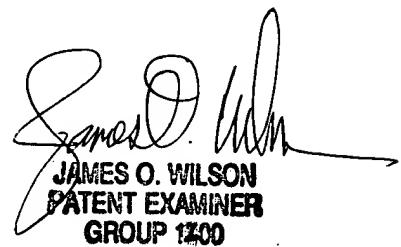
Inventions of Group I and of Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. § 806.05(h)). In the instant case the process for improving the health of a human by administering a supplemental composition such as the nutritional supplements set forth in U.S. Patents 4,906,664 or 5,179,122.

Because these inventions are distinct for the reasons given above and the inventions have acquired a separate status in the art as shown by their different classification, have acquired a separate status in the art because of their recognized divergent subject matter, and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Wilson whose telephone number is (703) 308-4624 or to his immediate supervisor, John Kight, III, SPE 1211, whose telephone number is (703) 308-0204.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.



James O. Wilson
PATENT EXAMINER
GROUP 1200